

# KNUCKLES, KOMOSINSKI & ELLIOTT LLP

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June 20, 2014

**VIA US MAIL**  
Rochelle Craig  
76 Neptune Avenue  
Mastic, NY 11950

**Re:** *Craig, Rochelle v. Kondaur Capital Corporation, et al.*  
Case No. 2:13-cv-4526 (SJF)(GRB)

Dear Ms. Craig:

This firm represents Kondaur Capital Corporation ("Kondaur"), a defendant in the action referenced above. We are sending this correspondence in reference to your attempted service of Andrew Rieger at our client's offices despite our April 11, 2014 letter to you. As you may recall, at that time we had informed you that Mr. Rieger had not been an employee of Kondaur for over three years and that any attempts to serve Mr. Rieger at our client's offices were improper and would not be accepted (see attached copy).

Pursuant to Rule 4 of the Federal Rules of Procedure, service of process upon an individual within a judicial district of the United States may be effectuated by, *inter alia*, delivering a copy of the pleadings to that individual at his usual place of abode, or if permitted by state law, to his place of employment. Assuming that California law applies, service could be effectuated by leaving a copy of the pleadings at Mr. Rieger's usual place of business. *See Cal. Civ. Proc. § 415.20.* Here, as explained above, Mr. Rieger neither resides at the address associated with Kondaur nor works therein. Accordingly, service could not have been properly effectuated upon Mr. Rieger through our client. *See Zirbes v. Stratton*, 187 Cal.App.3d 1407 (1986); *Omni Capital Int'l, Ltd., v. Wolff & Co.*, 484 U.S. 97, 104 (1987); *see also Gibbs v. Hawaiian Eugenia Corp.*, 581 F.Supp. 1269 (S.D.N.Y. 1984) (incomplete or improper service will lead court to dismiss action).

Because Mr. Rieger is no longer affiliated with Kondaur our client cannot accept such service on his behalf. *Randolph v. City of East Palo Alto*, 2007 WL 1232057 (N.D. Cal. 2007) (despite acceptance of service by prior

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employer, service not effectuated upon party no longer working where process was served). It appears that despite our informing you of this fact over two months ago you continue to rely on what appears to be improper service. Consequently, we reiterate that our client has confirmed once again that Mr. Rieger has not been an employee of Kondaur for over three years.

If you have any questions or concerns about the above, please don't hesitate to contact the undersigned.

Very truly yours,



Michel Lee

Enclosure

cc: Alexander G. Henlin, Esq.  
Eric P. Wainer, Esq.  
Robert W. DiUbaldo, Esq.  
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April 11, 2014

**Re: Craig, Rochelle, v. Kondaur Capital Corporation, et al.  
Case No.: 2:13-cv-4526**

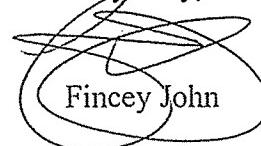
Dear Ms. Craig,

As you are aware, this office represents Kondaur Capital Corporation (“Kondaur”), a defendant in the above referenced matter.

My client has informed me that service of Andrew Rieger was attempted upon Kondaur. Please be informed that Mr. Rieger has not been an employee of Kondaur for over three years. As such, any attempt to serve Mr. Rieger at Kondaur’s office is improper and will not be accepted.

If you have any questions or concerns about the above, please don’t hesitate to contact the undersigned.

Very truly,



Fincey John

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